

DEPARTMENT OF MENTAL HEALTH

State of Mississippi

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Diana S. Mikula - Executive Director

May 22, 2015

Senator Will Longwitz
P. O. Box 1273
Madison, MS 39130

Re: Dept. of Mental Health review of Oxford House concerns

Dear Senator:

I represent the Mississippi Department of Mental Health in the above referenced matter. The Board of Mental Health and Executive Director have requested that I provide you the Department's response to the matters raised in previous correspondences and meetings regarding Oxford House, Inc. and the recovery homes in Northeast Jackson.

You have requested the Department of Mental Health not fund or "seed" any new sober-living homes through Oxford House, Inc. Prior to receiving your request, my client had already determined not to seed any new homes after the end of this budget cycle other than the twenty (20) recovery homes already opened or in the process of opening.

You also requested the Department of Mental Health take official action to demand repayment of a \$4,000 loan from the residents of the home located at 2230 E. Northside Drive, place a lien on the home, and take other official actions. After a thorough review, my client can find no factual, scientific, or legal basis upon which it might honor your requests.

I have summarized my client's review below. For ease of reference, I have divided this response into three sections: **The Facts**, **The Science**, and **The Law**.

The Facts

In response to the issues and concerns raised in your letters, meetings, and in public statements attributed to you, the Department of Mental Health ("DMH") has undertaken a thorough review. With few exceptions, DMH has found the issues raised by you to be unsupported by fact and/or based upon inaccurate premises. The issues you have raised and the conclusions reached during DMH's inquiry are summarized below:

1. **Issue:** Oxford House residents are not subject to mandatory drug tests.

Conclusion: This issue is unsupported by the facts. As a condition of residency, the residents of Oxford House homes are subject to mandatory drug and alcohol testing. If the resident refuses to be tested, they are immediately evicted. These tests may be scheduled, random, or for cause. If two or more residents of the home request a resident take a drug test, the resident must comply. To date no Oxford House home in Mississippi has refused to require a drug test when requested by DMH staff.

2. **Issue:** “Many of these recovering alcoholics and drug addicts are also sex offenders.”

Conclusion: This issue is unsupported by the facts. DMH is not aware of any registered sex offender having resided in a Mississippi Oxford House home. The *Suggested Oxford House Interview Questions* instrument included in the starter pack for all homes specifically instructs the homes to ask, “Are you a registered sex offender?” According to sources, every presentation given by outreach workers states that sex offenders are not allowed at Mississippi Oxford House homes.

3. **Issue:** “The residents are not required to attend any AA or NA meetings.”

Conclusion: This issue is unsupported by the facts. Mississippi Oxford House residents are required to attend five (5) AA, NA, or other twelve-step program meetings a week for their first thirty (30) days of residence. Thereafter, the residents are required to attend three (3) per week the entire time they reside at a Mississippi Oxford House home.

4. **Issue:** “...[L]ocal jails and prisons are an important source of recruitment for Oxford House residents.”

Conclusion: This issue is unsupported by the facts. A review of the monthly reports indicated that the outreach workers conducted 230 presentations over the last two and a half (2 ½) years at behavioral health providers, community events, the VA and other locations, representing approximately ninety-six percent (96%) of the total number of formal outreach efforts. Over that same time, only 10 presentations were conducted at jails, a mere four percent (4%).

However, if there remains a concern regarding individuals from jail being allowed by residents of an Oxford House home to join the home (which requires an 80% vote of current residents), please review the National Institutes of Health (“NIH”) sponsored study, *The Relationship between Neighborhood Criminal Behavior and Oxford Houses*, cited in “The Science” section of this response. You will find that, according to the study,

there were no significant differences in crime rates around Oxford House homes and the control group of homes.

5. **Issue:** A sober-living home "...is not good for neighborhoods with families and children....I question whether the choice to move into Northeast Jackson is good for the neighborhoods."

Conclusion: This issue is unsupported by the facts. In addition to the study referenced above which showed no relationship between Oxford House homes and neighborhood crime, there is also no apparent effect on real estate values. In fact, neighbors in close proximity to established Oxford House homes report significantly more positive attitudes toward recovery homes in general and the recovery home on their block, compared to neighbors a block away who might not know of the existence of the home. Please review the NIH studies, *Oxford House Recovery Homes: Characteristics and Effectiveness*; *Creating a home to promote recovery: The physical environments of Oxford House*; and *Attitudes toward recovery homes and residents: Does proximity make a difference*, cited in "The Science" section of this response.

Anecdotally, DMH staff compared the property values of the two oldest Oxford House homes and neighboring homes in residential neighborhoods in Biloxi and Gulfport Mississippi. Of the neighboring homes sampled, all had *increased* in value between 5% and 40% over the past two and a half years.

6. **Issue:** Evicted Oxford House home residents are made to leave with no assistance and "...walk when they are relapsed and angry."

Conclusion: This issue is unsupported by the facts. According to DMH staff and outreach workers, Oxford House homes may provide for transportation, temporary housing in a hotel, or take other actions to assist individuals who have relapsed and been evicted. Former residents are not forced to walk to a bus stop, or call family while standing in the street, or be otherwise be endangered or endanger their community after a relapse.

7. **Issue:** "The inhabitants of these houses are supposed to have a curfew. I spoke to a woman who lives across the street who says she sees them arriving home at all hours. This morning, one resident came home at 6:30am."

Conclusion: This issue is unsupported by the facts. Some residents of these homes work nights and work two jobs. No curfew is required after thirty (30) days of residence, unless a curfew rule is established by a majority of the residents of the individual homes.

8. **Issue:** When submitting their application, persons applying for Oxford House charters falsified the number of bedrooms present in the residences on Northside Drive and Forest Park Drive in Northeast Jackson, and the falsifications were material.

Conclusion: This issue is unsupported by the facts and is based upon an inaccurate premise. Both residences contain the number of bedrooms and other rooms as stated on the applications. However, even if there were only three rather than five bedrooms, this would not be considered a material falsification affecting a condition of payment. Homes with only three bedrooms would receive the same \$4,000 loan amount as a five bedroom home, as long as the homes can house at least six persons. In this context, the number of bedrooms is not material, does not act to increase or decrease the amount of the loan, and does not affect a condition of payment.

9. **Issue:** When submitting their application, persons applying for Oxford House charters falsified the proximity of the Northside Drive and Forest Park residences to a bus stop, falsely stating the homes were 1 mile away rather than the estimated 1.8 to 2 miles from the bus stop, and these falsifications were material.

Conclusion: This issue is unsupported by the facts and is based upon an inaccurate premise. The application does not ask the proximity to a “bus stop,” but asks the proximity to a “bus line.” That distance is 1.2 and 0.589 miles linear distance, respectively, which does not represent a materially false statement affecting a condition of payment.

The premise that this issue is based upon, that Oxford Houses are “required” to be located in close proximity to public transportation, is inaccurate. Close proximity is not a “requirement” to be fulfilled before being granted a charter or receiving a \$4,000 loan. It is merely guidance to assist these homes in achieving success.

It is DMH’s understanding that Oxford Houses located in the rural areas of Vermont, Maine, New Hampshire, New York, Maryland, Virginia, and North Carolina have no access to public transportation at all. Similarly, there are others homes in less rural areas without public transportation, such as the homes in Waco, Wichita Falls, Arlington, and half of Houston in Texas; La Grand, St Helens, Albany, and North Bend in Oregon; and Slidell and Mandeville in the neighboring state of Louisiana. It is estimated that one-third (1/3) of Oxford Houses either do not have bus service or the bus service is over one mile away.

Also of note, because of a consent decree entered by the City of Jackson in 2010, Jatran must stop anywhere on their route (not just at a “bus stop”) at the nearest location accessible to the rider under certain circumstances.

10. **Issue:** Oxford House homes operate with no oversight or supervision.

Conclusion: This issue is unsupported by the facts and is based upon an inaccurate premise. Oversight is provided to both Oxford House, Inc. and the Mississippi Oxford House homes in the following manner:

- a. Review of a written proposed budget which must be approved by two DMH Division Directors and one Bureau Director, and includes these standard accounting categories: Personnel and Fringe; Travel; Commodities; Equipment; Contractual; and Indirect Costs. DMH uses its experience in budget review to award only those amounts that are reasonable and necessary to achieve program objectives.
- b. Assurances are signed by Oxford House, Inc. as part of their grant which allows DMH staff members to enter any property that receives funding at any time.
- c. Monthly cash requests provide an accounting of each dollar spent for the month. Each request is reviewed, at a minimum, by a DMH Division Director and internal accountant.
- d. An annual independent audit is submitted by Oxford House, Inc. to DMH for review by the Bureau Director of Alcohol and Drug Services and the Bureau Director of Administration.
- e. Oxford House, Inc. is audited annually by internal accounting auditors employed by DMH.
- f. Monthly reports are submitted providing detailed information regarding the homes, residents, occupancy, and the revolving loan fund.
- g. Grants provided by DMH to Oxford House, Inc. provide for the employment of four outreach workers, who monitor the homes for compliance with the approved sober-living model.
- h. Employees within two separate Bureaus at DMH have regular contact with Oxford House, Inc. executive staff, regional staff, and outreach workers.
- i. DMH maintains an Office of Consumer Support by which the public registers complaints about any programs certified or funded by the agency. All complaints are documented and DMH investigates each complaint. Prior to April of this year, no complaints had been made with the Office of Consumer Support regarding Oxford House, Inc.
- j. DMH staff members are pursuing the creation of a Quality Assurance group to assist Oxford House homes and help ensure quality outcomes. Bureau of Alcohol and Drug Recovery staff are approaching their bureau's Advisory Council with a request that the council appoint a Quality Assurance Subcommittee for this purpose.

When discussing the suggestion of governmental “supervision” of individuals in their private homes, it is important to remember that Oxford House chartered houses are homes, where people live, work, and recreate. These are not intended to be treatment facilities or expensive “half-way houses” like the *McCoy House*, where minute-by-minute supervision might occur.

By way of background, many times the continuum of care for a person seeking alcohol or drug recovery begins with a five (5) day detoxification or “detox” program. Next might be twenty-eight (28) days of treatment at a residential treatment facility. Afterward, the person could reside in a halfway house (like the *McCoy House*) for a limited amount of time while financially able to pay. Finally, the person returns home or to a sober-living home (if approved for residence by an 80% vote of the other residents). The outreach worker and peer support offered in a private sober-living home provides a level of oversight and encouragement that would not be present in usual aftercare if the person returned to their own home.

There is no requirement for the government to “supervise” a person in their private home. Use by these homes of a \$4,000 federal startup loan does not justify an intrusive government requirement of being “supervised” while at home, just as the use by other persons of federally backed mortgages (FDIC, VA, FHA, Fannie Mae/Freddie Mac, etc.) does not give rise to governmental “supervision” in their homes. The kind of governmental “supervision” of private homes you suggest, merely because of federally-backed financing of a home loan or startup loan, is antithetical to the liberty interests we all enjoy.

11. **Issue:** Oxford House is a business venture.

Conclusion: This issue is unsupported by the facts and is based upon an inaccurate premise. Oxford House, Inc., is a 501(c)(3) corporate non-profit, and is not a for-profit business. However, even if Oxford House were a for-profit corporation, DMH knows of no legal or regulatory prohibition preventing businesses from providing recovery home services.

12. **Issue:** The numbers of total departures on the monthly reports do not reconcile with the other departure numbers.

Conclusion: This issue has been substantiated and is being corrected. Upon review of the computer spreadsheet program used to calculate total departures on the monthly reports, an error was discovered in the automated line formula used to tabulate totals. That spreadsheet formula has now been corrected. DMH has requested corrected monthly reports.

13. **Issue:** You expressed an opinion at the meeting of the Board of Mental Health today that the E. Northside Drive home is too small for its intended use and that homes are being chartered when there is no need.

Conclusion: DMH staff will review these issues and provide a response in due course.

In conclusion, there appears to be a lack of any factual basis for the vast majority of the issues and concerns put forth in your letters, meetings, and in the public statements attributed to you. DMH has also not discovered any material falsifications by Oxford House, Inc. or the individually chartered homes which might affect a condition of payment or justify the official actions you have requested. DMH has devoted substantial agency resources and staff time in conducting this review.

The Science

In your letters, meetings, and in statements attributed to you, dissatisfaction was expressed with the efficacy of the Oxford House sober-living model. At present, DMH is aware of the following non-exhaustive list of studies and articles funded by the National Institutes of Health (“NIH”) and U.S. Department of Health and Human Services (“HHS”):

1. ***Benefits and costs associated with mutual-help community-based recovery homes: The Oxford House model***, a February 2012 study finding the Oxford House model saved residents \$29,000 compared to usual care.
2. ***From personal tragedy to personal challenge: responses to stigma among sober living home residents and operators***, a March 2012 study that found, despite stigma, residents developed valued identities as helpers in their communities, providing advice to neighbors whose family or friends had substance use problems, and organizing community service activities to improve the appearance of their neighborhoods.
3. ***Perceptions of sober living houses among addiction counselors and mental health therapists: knowledge, views and perceived barriers***, a 2012 study finding support for sober-living homes and identified barriers, particularly social stigma.
4. ***Substance use and motivation: a longitudinal perspective***, a January 2011 study finding residents reported higher benefits than costs of sobriety or cutting down substance use at every study time point.
5. ***Oxford House Recovery Homes: Characteristics and Effectiveness***, a May 2010 study finding Oxford House provides an effective and inexpensive alternative for many individuals attempting to recover from addictions to alcohol and other drugs.
6. ***Sober living houses for alcohol and drug dependence: 18-month outcomes***, a June 2010 study finding residents of sober-living homes make improvements in a variety of areas.

7. ***What did we learn from our study on sober living houses and where do we go from here?***, a December 2010 study documenting resident improvement regarding substance abuse, employment, arrests and psychiatric symptoms.
8. ***The Relationship between Neighborhood Criminal Behavior and Oxford Houses***, a Spring 2009 study finding there were no significant differences in crime rates around Oxford House homes and the control group.
9. ***A clean and sober place to live: philosophy, structure, and purported therapeutic factors in sober living houses***, a June 2008 study finding sober-living homes are an evidence-based, underutilized modality.
10. ***Communal housing settings enhance substance abuse recovery***, a 2006 study finding that, compared to usual care, individuals in communal living exhibited significantly lower substance use, significantly higher monthly income, and significantly lower incarceration rates.
11. ***Creating a home to promote recovery: the physical environments of Oxford House***, a 2006 study finding the amenities and independently run character of the homes created and maintained a safe and sober setting and sense of home among residents.
12. ***The need for substance abuse after-care: longitudinal analysis of Oxford House***, a July 2006 study finding the Oxford House model enhanced residents' abstinence and reduced probability of relapse.
13. ***Economic costs of Oxford House inpatient treatment and incarceration: a preliminary report***, a 2006 study finding societal costs of Oxford House were low, compared to estimated costs of inpatient or correctional settings.
14. ***Attitudes toward recovery homes and residents: Does proximity make a difference?***, a July 2005 study finding neighbors living near established Oxford House homes report significantly more positive attitudes toward recovery homes, compared to neighbors a block away.

The Oxford House model is also the only sober-living model approved for the Substance Abuse and mental Health Services Administration's ("SAMHSA's") National Registry of Evidence-based Programs and Practices ("NREPP"). Additional studies supporting the Oxford House model are readily available.

If there are any other studies or peer-reviewed scientific articles which might counter the findings of these studies, please forward them to me. My client will submit those materials to DMH staff and other experts in the field of alcohol and drug recovery for review. If found to be persuasive, I am certain such studies or articles (if any exist) would be among the material considered when determining future alcohol and drug recovery program development.

The Law

As an attorney, I am sure you are aware of the following caselaw and statutory provisions:

City of Edmonds v. Oxford House, Inc., 514 U.S. 725 (1995), holding that persons in recovery residing in Oxford House homes are disabled under the meaning of the Fair Housing Act.

42 U.S.C. §3604 Discrimination in sale/rental of housing

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, *or otherwise make unavailable or deny*, a dwelling to any person because of race, color, religion, *sex, familial status*, or national origin.

(f) (1) To discriminate in the sale or rental, *or to otherwise make unavailable or deny*, a dwelling to any buyer or renter *because of a handicap* of--

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

42 U.S.C. §3617 Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or *interfere* with any person *in the exercise or enjoyment of*, or on account of his having exercised or enjoyed, or *on account of his having aided or encouraged any other person* in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

As I am sure you are also aware, these statutes may be enforced by individuals, the Department of Justice, and/or the Secretary of Housing and Urban Development simultaneously. If a private individual wishes to bring suit under the Fair Housing Act for denial, interference, retaliation or coercion, *the court may appoint an attorney for the plaintiff to sue* the offending person or agency, *at no cost* to the plaintiff. Please see 42 USC §3613. The court may also award actual and punitive damages, permanent or temporary injunctions, temporary restraining orders, attorney's fees and costs, civil fines, and may order other appropriate relief. Consequences might also include *criminal fines and imprisonment*, depending on the type of interference. Please see 42 USC §3631. These provisions of law protect both the residents and the landlords, outreach workers, and others who might have aided or encouraged occupancy of the recovery homes.

The Department of Mental Health has no legal authority with which to order relocation of any Oxford House home. In the absence of such authority, if DMH, other state officials, and/or private individuals attempt to force, demand, or coerce relocation of the homes in Northeast Jackson, they would be subject to liability. Please see 42 USC §3617, above. Similarly, should DMH, other state officials, and/or private individuals *interfere* with the residents' exercise or enjoyment of their rights under the Fair Housing Act, they will face liability under 42 USC §3617 and possibly §3631. Finally, should DMH, other state officials, and/or private individuals take any action against *any other person* because they have aided or encouraged the residents in the exercise of their rights, they would be subject to the same liability under §3617 and §3631.

You have stated on more than one occasion that you do not intend to discriminate against the residents of these homes based upon their disability. However, because of inaccurate public statements, and because your reasons for requesting official action against these residents have proven inaccurate and unsupported, it might be seen by the residents, the Department of Justice, the HUD Secretary, and others that your actions and their timing are evidence of pretext and unlawful interference. I would encourage you in the future to contact my client to receive and disseminate only accurate information prior to making any public pronouncements regarding the residents or DMH's oversight. By relaying only fact-based, truthful information you might diminish your personal legal liability and could be saved any unnecessary difficulties. I also note that your repeated reference to "unrelated men" in your requests for action might subject you to additional personal liability. As you know, the Fair Housing Act prevents interference not only based upon disability, but also interference based upon gender and familial status. Please see 42 USC §3604.

The State of Mississippi and Department of Mental Health continue to commit considerable resources toward serving persons with disabilities in communities and in the least restrictive environment appropriate to their needs. Continuing these efforts will ensure that individuals with disabilities live, work, receive services, and recreate with non-disabled individuals.

The Department of Mental Health is resolved to honestly and fairly address misinformation when required. It is in this spirit that my client has provided you with the facts and conclusions contained in this correspondence.

Should you need any further information or assistance, please do not hesitate to contact the Department of Mental Health's Director of Communications or its Legal Division.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gene W. Rowzee, Jr.", written over a horizontal line.

Gene W. Rowzee, Jr.
Senior Attorney

Cc: Diana Mikula, Executive Director, DMH
Sampat Shivangi, M.D., Chair, Board of Mental Health
Mr. George Harrison, Vice-Chair, Board of Mental Health
Mr. Rick Barry, Board Member
Dr. Manda Griffin, Board Member
Dr. Jim Herzog, Board Member
Mr. Robert Landrum, Board Member
Dr. John Montgomery, Board Member
Ms. Teresa Mosley, Board Member
Ms. Rose Roberts, Board Member
Governor Phil Bryant
Drew Snyder, Deputy Council, Governor's Office
Lucien Smith, Chief of Staff, Governor's Office